

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

Paper No. 33

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MAKOTO INAGAWA, AKIHIRO HOSOKAWA
and RICHARD E. DEMARAY

Appeal No. 2002-1201
Application No. 09/026,575

ON BRIEF

Before KIMLIN, DELMENDO and PAWLIKOWSKI, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

REQUEST FOR REHEARING

Appellants request rehearing of our decision of January 17, 2003, wherein we affirmed the examiner's rejections of all the appealed claims, claims 1-3 and 5-22, under 35 U.S.C. § 103 for essentially the reasons expressed in the Examiner's Answer. Appellants request that we reconsider our decision and reverse the examiner's rejections.

At the outset, appellants correctly point out that claims 17 and 18, which are dependent upon independent claim 16, stand or fall together with separately argued claim 16, and claims 20-22, which are dependent upon independent claim 19, stand or fall together with separately argued claim 19.

Appellants contend that "[t]he Board further errs in supporting all grounds of rejection of claims 1-3 and 5-15 by stating that claims 1-3 and 5-15 do not require that the shadow frame and the substrate be out of contact during processing" (page 2 of Request, second paragraph). Appellants urge that "[r]epresentative claim 1 specifies a 'substrate being processed' and a shadow frame positionable with a gap between an underside of the shadow frame and an upper surface of the substrate being processed" (id.). However, we maintain our agreement with the examiner that the claim language does not require that the shadow frame and substrate be out of contact during processing. The claim language simply requires that the shadow frame be capable of being positioned with a gap between its underside and the upper surface of the substrate. Appellants have not demonstrated, or even argued, that the apparatus of White does not possess this capability. Appellants acknowledge that process claims 16 and 19 "do not require a gap between the substrate

being processed and the shadow frame" (page 3 of Request, third paragraph). Also, appellants' request does not refute the examiner's finding that Tateishi discloses "shadow frame 12 positionable with a gap between an underside of the shadow frame and upper surface of the substrate" (page 5 of Answer, last paragraph). Manifestly, our comment based upon the inaccurate copy of Figure 7 supplied by appellants is not necessary to our decision.

Appellants also state that "[t]he Board further errs in supporting rejection of claims 1-3 and 5-15 by stating that Applicant is relying on the argument that a shadow frame, *i.e.*, any shadow frame, is not in contact with a substrate during processing" (page 2 of Request, last paragraph). While we now understand that our interpretation was not the intent of appellants, our interpretation was reasonable based on the context of the paragraph. In any event, as is evident from our discussion above, our interpretation of appellants' argument was not necessary to our decision.

As for separately argued claims 16 and 19, we adopt the examiner's reasoning set forth at page 6 of the Answer. Appellants' argument in the Brief that Deguchi discloses discharging a charge from the susceptor and Tateishi discloses

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discharging a charge through the substrate holder does not address the thrust of the examiner's rejection. It is the examiner's position that substrate holder 12 of Tateishi also functions as a shadow frame.

In conclusion, based on the foregoing, appellants' request is denied with respect to making any change in our decision affirming the examiner's rejection of claims 1-3 and 5-22 under 35 U.S.C. § 103.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

DENIED

EDWARD C. KIMLIN)	
Administrative Patent Judge)	
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ROMULO H. DELMENDO)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
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BEVERLY PAWLIKOWSKI)	
Administrative Patent Judge)	

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